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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 December 2009</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>37-56</u> is/are pending in the application.

    4a) Of the above claim(s) <u>41-43,46,48 and 51-54</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>37-40,44,45,47,49,50,55 and 56</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 05/15/2009 has been entered.

Election/Restrictions

2.   Applicant's election with traverse of claims 37-40, 44, 45, 47, 49, 50, 55, and 56 in the

reply filed on 12/28/2009 is acknowledged. The traversal is on the ground(s) that there is no

burden of search. This is not found persuasive because the different species contain features that

are mutually exclusive and would therefore require a different text and class/subclass search.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 37-39, 44, 47, 49 and 50 are rejected under 35 U.S.C. 102(e) as being anticipated

by Schuetzle (US Patent # 6,762,791).

[Claim 37]

A method of processing a digital image using a portable electronic device (figure 1, camera 30), the method comprising: detecting a user selection of a first function to communicate a first digital image over a wireless network to a first destination (col. 4 lines 15-24, col. 5 lines 59-63, col. 8 lines 11-20, col. 7 lines 66-col. 8 line 10); determining a first end use process reference in response to the user selecting the first function, wherein the first end use process reference includes a predetermined end use output format of the first destination (col. 5 lines 22-47, col. 6 lines 5-14); detecting a selection of the first digital image at the portable digital image capturing device (col. 7 lines 66-col. 8 line 10) and initiating a processing of the first digital image using the first end use process reference to form a first processed digital image at the portable digital image capturing device and initiating a first communication of the processed digital image over the wireless network communicatively coupled to the first destination using the first function, the first destination operable to output the processed digital image using the predetermined end use output format (col. 5 lines 36-48 and col. 6 lines 5-12, the choosing of a particular amount of cropping or resolution or any other parameters would lead to processed digital image using the predetermined end use output format).

[Claim 38]

The method of claim 37 further comprising: determining an image format size of the end use process reference to display the processed image using a predetermined image format size of the first destination (col. 4 lines 46-57); processing the first digital image using the image format size to form the processed digital image in response to initiating the processing of the first digital image using the first end use process reference (col. 5 lines 36-48, e.g. cropping changes size of the image); and wherein the initiating the first communication includes communicating the

processed digital image including the image format size over the wireless network

communicatively coupled to the destination operable to output the processed digital image (col. 5

lines 36-48, data attributes are related to cropping which is performed on the computer system or

image capturing device).

[Claim 39]

The method of claim 37 further comprising: determining an image compression size of the end

use process reference; processing the first digital image using the image compression size to

form the processed digital image in response to initiating the processing the first digital image

using the first end use process reference; and wherein initiating the first communication includes

communicating the processed digital image including the image compression size over the

wireless network coupled to the destination (col. 5 lines 36-48, data attributes are related to

changing the resolution of the image which is performed either on the computer system or image

capturing device).

 [Claim 44]

The method of claim 37 further comprising: determining a device identifier of the portable

digital image capturing device; and communicating the device identifier and the first processed

digital image to the first destination, the device identifier operable to be used at the first

destination to access to the first processed digital image (col. 7 lines 48-col. 8 line 10).

 [Claim 47]

The method of claim 37 further comprising: determining an application identification reference

of the first function; determining a device identifier of the portable digital image capturing

device; and communicating the application identification reference and the device identifier with

the processed digital image to the destination (col. 7 lines 48-col. 8 line 10).

[Claim 49]

A portable electronic device (figure 1, 30) operable to record a digital image (memory 34 or 35)

comprising: an image input sensor (32) operable to record a first digital image; a memory (34 or

35) operable to store the first digital image; a processor (38) coupled to the memory (col. 4 lines

25-45), the processor operable to: detecting a user selection of a first function to communicate a

first digital image over a wireless network to a first destination operable to display digital images

(col. 4 lines 15-24, col. 5 lines 59-63, col. 8 lines 11-20, col. 7 lines 66-col. 8 line 10);

determining a first end use process reference in response to the user selecting the first function,

wherein the first end use process reference includes a predetermined end use output format of the

first destination (col. 5 lines 22-47, col. 6 lines 5-14); detecting a selection of the first digital

image at the portable digital image capturing device (col. 7 lines 66-col. 8 line 10) and initiating

a processing of the first digital image using the first end use process reference to form a first

processed digital image at the portable digital image capturing device and initiating a first

communication of the processed digital image over the wireless network communicatively

coupled to the first destination using the first function, the first destination operable to output the

processed digital image using the predetermined end use output format (col. 5 lines 36-48 and

col. 6 lines 5-12).

[Claim 50]

The portable electronic device of claim 49 wherein the processor is further operable to: activate

the selected function process prior to capturing the first digital image using a first digital image

process application (figure 2a); and automatically associate a reference to the selected function

with the first digital image upon capturing the first digital image using the first digital mage

process application (col. 5 lines 49-col. 6 line 4).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 40, 45, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Schuetzle (US Patent # 6,762,791) in view of Safai (US Patent # 6,715,003).

[Claim 40]

The method of claim 37 further comprising: processing the first digital image to resize the first

digital image using a first end use process reference operably associated with outputting the first

processed image at the first destination at a first image size (col. 5 lines 36-48, data attributes are

related to changing the resolution of the image which is performed either on the computer system

or image capturing device); processing the first digital image to resize the first digital image

using a second end use process reference to form a second processed digital image, the second

end use process reference operably associated with outputting the second processed image at a

second destination at a second image size different than the first image size (user has the ability

to write the user definable attribute portions that could be used to change the size of the image)

initiating communication of the first processed digital image to the first destination operable to

receive the first processed digital image (col. 7 lines 15-27). Schuetzle fails to teach to send the

image via a digital image email; as an image upload and initiating communication of the second

processed digital image to the second destination operable to receive the second processed digital

image. However Safai teaches in figure 4a, that images are emailed (406a) or uploaded to a

server via 406d by writing an email address as shown in figure 4b. Therefore taking the

combined teachings of Schuetzle and Safai, It would be obvious to one skilled in the art at the

time of the invention to have been motivated to have emailed or uploaded to a PC in order to

send the image to another address so that the memory is utilized efficiently thereby not losing an

image taking opportunity in case the camera memory is running low.

[Claim 45]

Schuetzle fails to teach selecting the first digital image to communicate to a website accessible

via the Internet; enabling a first user access to the first digital image via the website; selecting a

second digital image to communicate to the website; enabling a second user access to the second

digital image; and initiating a communication of the first digital image and the second digital

image via the wireless network to the website. However Safai teaches at col. 16 lines 30-50 that

the services 602 are configured to upload the photos received from camera 100 to a designated

server or Web site. In this embodiment, upon receipt of user information, addresses, and

selected photos, services 602 parse the addresses and identify a Web site address among them,

such as a Uniform Resource Locator (URL). In response, services 602 create a Web document,

for example, a file in the hypertext markup language (HTML) format. The selected photos are

converted into image files, and the image files are hyperlinked into the HTML file. Services 602

establish a connection to the Web site or Web server that is identified in the addresses, through

the network 608. For example, services 602 open an anonymous file transfer protocol (FTP)

connection to a Web server that is identified in the addresses. Using the FTP connection,

services transfer the HTML file and the image files to the Web server. As a result, digital photos

taken by the camera 100 become available worldwide, on a rapid basis, through the network 608

using standard World Wide Web protocols and the foregoing processes.

      Therefore taking the combined teachings of Schuetzle and Safai, It would be obvious to

one skilled in the art at the time of the invention to have been motivated to have selecting the

first digital image to communicate to a website accessible via the Internet; enabling a first user

access to the first digital image via the website; selecting a second digital image to communicate

to the website; enabling a second user access to the second digital image; and initiating a

communication of the first digital image and the second digital image via the wireless network to

the website in order to easily access the images via a worldwide web by any user.

[Claim 55]

Schuetzle fails to teach the processor is further operable to receive a selection of an email

address; the processor is further operable to formulate an mark-up language encoded file

including a reference to the first digital image; and the communication module operable to

initiate a communication of the first digital image, the mark-up language encoded file, and the

email address.

      However Safai teaches at col. 16 lines 30-50 that the services 602 are configured to

upload the photos received from camera 100 to a designated server or Web site. In this

embodiment, upon receipt of user information, addresses, and selected photos, services 602 parse

the addresses and identify a Web site address among them, such as a Uniform Resource Locator

(URL). In response, services 602 create a Web document, for example, a file in the hypertext

markup language (HTML) format. The selected photos are converted into image files, and the

image files are hyperlinked into the HTML file. Services 602 establish a connection to the Web

site or Web server that is identified in the addresses, through the network 608. For example,

services 602 open an anonymous file transfer protocol (FTP) connection to a Web server that is

identified in the addresses. Using the FTP connection, services transfer the HTML file and the

image files to the Web server. As a result, digital photos taken by the camera 100 become

available worldwide, on a rapid basis, through the network 608 using standard World Wide Web

protocols and the foregoing processes.

Therefore taking the combined teachings of Schuetzle and Safai, It would be obvious to

one skilled in the art at the time of the invention to have been motivated to have the processor is

further operable to receive a selection of an email address; the processor is further operable to

formulate an mark-up language encoded file including a reference to the first digital image; and

the communication module operable to initiate a communication of the first digital image, the

mark-up language encoded file, and the email address in order to easily access the images via a

worldwide web by any user.

[Claim 56]

Schuetzle teaches a first image capture function button (col. 6 lines 45-55). Schuetzle fails to

teach an image magnification function operable to magnify a view of the first digital image, an

email function operable to be accessed using a graphical user interface; an image upload function

operable to be accessed using the graphical user interface; and a pointing device selector

operable to: enable selection of the first function; enable selection of the email function; enable

selection of the upload function; and enable selection of the first digital image. However Safai

teaches in figure 4a, that images are magnified (figure 4l, zoom button 429b), emailed (406a) or

uploaded to a server via 406d by writing an email address as shown in figure 4b and address

images button 429c. Therefore taking the combined teachings of Schuetzle and Safai, It would be

obvious to one skilled in the art at the time of the invention to have been motivated to have an

image magnification function operable to magnify a view of the first digital image, an email

function operable to be accessed using a graphical user interface; an image upload function

operable to be accessed using the graphical user interface; and a pointing device selector

operable to: enable selection of the first function; enable selection of the email function; enable

selection of the upload function; and enable selection of the first digital image so that the

memory is utilized efficiently thereby not losing an image taking opportunity in case the camera

memory is running low.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to YOGESH K. AGGARWAL whose telephone number is

(571)272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Sinh Tran can be reached on (571)-272-7564. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogesh K Aggarwal/
Primary Examiner, Art Unit 2622